

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA)	
)	
)	No. 1:06-CR-92
v.)	
)	Chief Judge Curtis L. Collier
JERRY WAYNE COOPER)	
)	

ORDER

Before the Court is Defendant Jerry Cooper's ("Defendant") motion in limine requesting the Court to restrict the Government from introducing any evidence pursuant to Federal Rule of Evidence 404(b) ("Rule 404(b)") without first allowing Defendant to challenge the admissibility of such evidence in a jury-out hearing (Court File No. 37). Defendant filed a supporting memorandum (Court File No. 38). The Government filed a response to Defendant's motion stating it already revealed to Defendant it had evidence it might offer under Rule 404(b) and expects to file a motion in limine which specifically addresses the Rule 404(b) evidence issue, which will give the Court the opportunity to consider the issue before trial (Court File No. 44).

As the Court recognized in a previous order (Court File No. 40), the Government has already complied with the notice requirements of Rule 404(b). The information given to Defendant was specific enough to apprise Defendant of its general nature and to allow Defendant to file a motion regarding its admissibility if he thought it was necessary. The procedure requested by Defendant is the usual procedure followed by this Court. From the Government's response it appears the Government is in general agreement of the utility of determining admissibility of Rule 404(b) evidence out of the presence of the jury. That being the case, this motion is moot since there is no

disagreement regarding the procedure to be used. Therefore, the Court **DENIES** Defendant's motion in limine (Court File No. 37).

SO ORDERED.

ENTER:

/s/
CURTIS L. COLLIER
CHIEF UNITED STATES DISTRICT JUDGE